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EXAMINER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Status of Claims

1. Due to communications filed 10/17/07, the following is a final office action.
Claims 1-4, 9 and 14 are cancelled. Claim 6 is amended. Claims 5-8, 10-13 and 15-20 are pending in this application, have been examined on the merits, and are rejected as follows. The previous rejection has been maintained, with exception to the withdrawal of the 35 USC § 112 rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5-8, 10, 12, 15, 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson (US 2002/0082900 A1).

As per claim 6, Johnson discloses:

obtaining data from plural data sources including a consumer purchase

tracking data set and a demographics data set, (Abstract, collecting market research and user trend data, w/ [0004], shows marketing data includes demographics);

using automated analysis to analyze at least a portion of said obtained data, ([0025], analyze program output ; and

providing an integrated category management report based at least in part on said analysis, said integrated category management report being a targeted opportunity assessment and market analysis at least partially customized for the intended end user, ([0037]-[0043], shows marketing and trend data in the form of a report, w/ [0033], solvent project/output of a web page can be generated for *each type* of solvent system).

As per claims 5/10, Johnson discloses:

dynamically including or excluding further detailed information from said report depending on whether additional analysis results are available/further including dynamically including or excluding further detailed information from said integrated category management report depending on whether additional analysis results are available, (Fig. 6, sheet 8, shows quantity can only be modified to an equal or lesser amount that was originally purchased, therefore, the features of these claims are inherent since in order to additionally modify, additional purchases must be made, and therefore additional analysis must have taken place).

As per claim 7, Johnson discloses:

delivering said report at least in part over a network, ([0037], email, w/abstract, internet).

As per claim 8, Johnson discloses:

wherein said integrated category management report includes interactive fields that can call up additional information, (Fig. 6, sheet 8, shows quantity can be modified by supplier).

As per claim 12, Johnson discloses:

wherein said network is the Internet, (abstract, Internet).

As per claim 15, Johnson discloses:

wherein said integrated category management report includes a pricing suggestion for at least one product, ([0065], price quote).

As per claim 18, Johnson discloses:

wherein said integrated category management report includes at least one report segment selected from the group consisting of *consumer assessment*, category assessment, pricing analysis, promotion analysis, placement analysis, and product assortment analysis, ([0038], view users who have accessed module for solvent selection).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11, 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 2002/0082900 A1), as applied to claim 6 above, and further in view of Dippold, (US 2002/0133479 A1).

As per claim 11, Johnson does not specifically disclose the following, but does disclose analysis of a category of product such as solvents over time as shown in [0025].

However, Dippold discloses:

further including providing a score card that tracks said category management over time, (Page 3, paragraph [0033], lines 1-15, scoring rules used to choose a final category). Dippold discloses this limitation in an analogous art for the purpose of showing that categories are selected according to a scoring system.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide a score card that tracks said category management over time with the motivation of keeping record of the management of categories.

As per claim 20, Johnson does not specifically disclose the following, but does disclose implementation of agricultural products in claim 5.

However, Dippold discloses:

wherein at least one of said data sets relates to cereal, (paragraph 0005, lines 1-3, breakfast cereals). Dippold discloses this limitation in an analogous art for the purpose of showing that cereals are included in category groups.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for at least one of said data sets to relate to cereal with the motivation of showing that food products can also be categorized and managed.

6. Claims 13, 16, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 2002/0082900 A1), as applied to claim 6 above, and further in view of McConnell et al, (US 2001/0049690 A1).

As per claim 13, Johnson fails to disclose wherein said network is a local area network but does disclose implementing the system over the Internet, which is also an area network in the Abstract.

However, McConnell et al discloses:

wherein said network is a local area network, ([0070], LAN) McConnell et al discloses this limitation with the motivation of showing that the monitoring/tracking of sales can be done over a local area network.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the network to be a local area network with the motivation of tracking products locally.

As per claims 16/17, Johnson fails to disclose the following, but does disclose product recommendations in [0025].

However, McConnell et al discloses:

Wherein said integrated category management report includes at least one suggestion for improving the sales of at least one product, (paragraphs [0199]-[0205], shows an attribute set that identifies when stock outs are excessive, and therefore

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periods of high seasonal sales are present, in this case an attempt to match attributes with these types of events take place in order to keep high sales, thereby changing distribution values, esp. [0025], shows product recommendations to alleviate items not selling). McConnell et al discloses this limitation in analogous art for the purpose of showing that distribution values can be changed as a result of a need to keep sales at a high level all year round.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to make at least one suggestion for improving the sales of at least one product/a category of products with the motivation of moving products through a market environment.

As per claim 19, Johnson fails to disclose wherein said data sources further include at least one planogram, but does disclose the generation of product information in [0022].

However, McConnell et al discloses:

wherein said data sources further include at least one planogram, (Page 24, Col. 1, lines 4-8 [claim 47], shows at least one planogram type is used in conjunction with correlating items). McConnell et al discloses this limitation in an analogous art for the purpose of showing that planograms, which is no more than a diagram of a product display that can be used in conjunction with monitoring or tracking sales).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include at least one planogram with the motivation of using a diagram of a product display to manage products.

Response to Arguments

7. Applicant's arguments, see remarks, filed 10/17/07, with respect to claim 6 have been fully considered and are persuasive. The 35 USC § 112 of claim 6 has been withdrawn.

8. Applicant's arguments filed 10/17/07 have been fully considered but they are not persuasive.

As per claim 6, applicant argues that with respect to the disclosures regarding customer demographics and the like, paragraph [0004] of Johnson, as identified in the Office Action notes that such information "is retained, if at all, at each individual supplier representative", and thus Johnson in the cited paragraph does not disclose communication of such information to anyone, but rather indicates that the information stayed with the suppliers, and therefore, according to applicant, Johnson's disclosure relating to exchange of information between suppliers and ultimate customers does not anticipate the presently claimed method for providing an integrated category management report that is a targeted opportunity assessment and market analysis at least partially customized for the intended retailer end user. However, Johnson's invention relates to "a method and centralized system established over the Internet for automatically generating information directed to products of one or more suppliers in response to user request criteria, and collecting information of market research and user trend data directed to demographic information of the users of the system and matching the user request criteria. The market research and user trend data can be

forwarded to suppliers registered with the system and the users request criteria. The system also provides for generating rebate certificates directed to products requested by the user, as marketing incentives” (shown in [0007]). Here, not only is the market research and trend data forwarded to suppliers registered with the system, but is also forwarded to the users request criteria. In this case, since the user trend data directed to demographic information is forwarded to the users request criteria, this demographic information therefore provides the data needed for generating rebate certificates. Therefore, Johnson’s disclosure anticipates the presently claimed method for providing an integrated category management report that is a targeted opportunity assessment and market analysis at least partially customized for the intended retailer end user as discussed above in the rejection.

As per claims 11 and 20, applicant makes similar arguments to those of claim 1, and therefore, claims 11 and 20 are still rejected for the same reasons. In addition, applicant argues that Dippold does not carry out the additional steps of automated analysis and providing an integrated category management report that is a targeted opportunity assessment and market analysis at least partially customized for the intended end user, and also argues that Dippold provides no reason for the skilled artisan to carry on the additional steps required in the present claims. The skilled artisan is not taught, and would not have contemplated, preparation of a complete targeted opportunity assessment and market analysis at least partially customized for the intended end user in view of the Dippold disclosure. However, examiner disagrees with applicant’s argument that a specific teaching is required for a finding of obviousness.

KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396. Claims 11 and 20 recited combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under *KSR*.

Applicant also argues that in the present specification, a score card is defined as a formatted presentation tracking retailer progress after objectives and action plans have been defined, and in contrast, paragraph [0033] of Dippold does not describe a score card, but rather discusses "scoring rules" for a data mining software program. However, these scoring rules provides a formatted presentation a shown in [0032]. Here, the scoring rules follow a specific format. According to Dippold "if flavor is chocolate, then category is CAT A. Similarly, an "is not if-then" scoring rule, for example, has the following format: if flavor is chocolate, then category is not CAT B." In addition, [0033] shows that scoring is used to score the categorized product data provided by the product supplier, and is based upon the reference database, which suggests a formatted presentation, where the supplier is shown to be a retailer in [0003].

Applicant also argues that the disclosure of Dippold stops at the first step of the three part process recited in claim 6. However, claim 11 is rejected based on the combination of Johnson and Dippold, and therefore claim 11 is rejected for the same reasons as claim 1, and also with the addition of the cited parts of Dippold to cure the deficiencies of Johnson.

As per claims 13, 16, 17 and 19 applicant argues that the two systems as described in the cited prior art are separate tools that are addressed to different professionals in the retail industry - the supplier/ultimate customer (in the case of Johnson) and the store manager in charge of stock inventory (in the case of McConnell), and one would not have been motivated to combine the references because of their different application and intended users. However, examiner disagrees with applicant's argument that a specific teaching is required for a finding of obviousness. KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396. Claims 13, 16, 17 and 19 recited combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under KSR. As per claims 13, 16, 17 and 19, applicants make similar arguments to those of claim 1, and these claims are therefore still rejected for the same reasons as claim 1.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

- Patent Application Information Retrieval (PAIR) system, Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A. R. B.
March 28, 2008

/Akiba K Robinson-Boyce/
Primary Examiner, Art Unit 3628